

as to distribute the sound evenly and so as to make the sound audible to every part of the audience without making the sound disturb the audience collected in any one particular area. It would be reasonable to prescribe that the use of the loudspeaker in an open space should be limited to make the audibility of it not exceed 200 feet. But if, for any special occasion, it is necessary to make other arrangements, then we may safely leave it, in my opinion, to an officer such as the District Superintendent or Assistant Superintendent of Police to authorise the use of the loud speaker so as to make the sound audible beyond those limits. If in his opinion such amplification is necessary for any special purpose or special occasion, as for instance a marriage reception where some musical concert is arranged and the person thinks that it is not sufficient if the use of the loud-speaker is confined within the precincts of the premises but must be radiated throughout the place, in such instances.....

Mr. SPEAKER.—You are not moving your amendment, Sri Rama Rao ?

Sri M. V. RAMA RAO.—Not yet, Sir. I hope to furnish to the Hon'ble the Home Minister some facts so that he might understand my amendments and I hope to make him accept them even without my having to move the amendments.

Mr. SPEAKER.—Let us see after tea. The House will now adjourn for lunch and reassemble at 3-35.

The House adjourned for Lunch at Five Minutes past Three of the Clock and reassembled at Thirty-five Minutes past Three of the Clock.

[Mr. SPEAKER in the Chair.]

(Quorum was formed at 3-40 P.M.)

Statistics relating to Questions

Mr. SPEAKER.—Some Hon'ble Members wanted to know the number of questions which are still pending which are not answered.

Questions admitted for the	
March-April Session. ...	667
Questions admitted for	
July-August Session ...	313
Total ...	980

Questions to which replies have been furnished so far:

March-April Session ...	648
July-August Session ...	304
Total ...	952

Questions remaining unanswered:

March-April 1953 ...	19
July-August 1953 ...	9
Total ...	28

Of these 28, there are some 5 questions which are yet to be got printed.

As regards the Short Notice Questions:

Number tabled ...	36
Number admitted ...	20
Number of Questions sent to the Ministers for consent and answer ...	20
Number of Questions to which replies are furnished ...	8
Number of Questions disallowed by the Speaker finally ..	16
Consent not given by the Ministers ...	9
Permission refused by the Speaker ...	7

Sri M. V. Rama Rao will now resume his speech.

MYSORE POLICE (AMENDMENT), BILL, 1953.

Motion to consider (contd.)

Sri M. V. RAMA RAO (contd.).—Sir, as I was saying that the imposition of restrictions upon the use of loud-speakers, whether in a residential building or in an open place, is essentially a matter which should be regulated by the Police; and it should be so regulated as not to drive people to seek remedies for fancied wrongs or harassment, from law courts. It cannot be the object of the Government or of

(Sri M. V. RAMA RAO.)

anybody to make provisions which will defeat the very purpose for which this Bill is brought forward. The general rule should be, in my opinion, that the use of a loud-speaker by a person inside his own building or house should not make the sound audible beyond 50 ft., and in an open space should not make the sound audible beyond 200 ft. There is no controversy on that point. I think both Houses are agreed upon the reasonableness of these provisions. But I suggest that more should be done in order to make this enactment a measure which will not lend itself to abuse at the instance of those who want to defeat the provisions of the law or at the hands of any officers of the Police who may have occasion to use these provisions in particular circumstances. The use of it should not drive people to the law courts or to develop un-neighbourly relations with persons residing next door. Therefore, Sir, I suggest that while the restriction on the use of a loud-speaker within the limits prescribed by this Bill should be the general rule, it should be permissible for a police officer to issue a written direction placing further restriction upon the use of the loud-speaker even within the limits prescribed generally under clause 38B. When it becomes necessary to impose further restrictions on the operation of a loud-speaker then only will it be necessary to invoke the police power invested in the D.S.P. or the A.S.P. or the First-Class Magistrate exercising jurisdiction in the area to give a written direction to the person using the loud-speaker requiring him to so use it as not to cause annoyance, disturbance, discomfort or inconvenience or injury to persons resident in the vicinity. Therefore, unless there is any special purpose or occasion, for which an amplification of the sound is considered necessary by such officer, the general rule will prevail. No person merely by getting a licence from a police officer should be in a position to make use of the loud-speaker in such a manner as to cause annoyance, disturbance, discomfort or injury to people

generally or to the people residing in a particular locality just because he has been able to obtain a licence from some officer authorised to issue this licence. Unless it is established that the use of a loud-speaker so as to amplify the sound to a pitch or volume sufficient to make it audible beyond 50 feet when it proceeds from a house or beyond 200 feet when it proceeds from a loud-speaker operated in an open place is necessary for any special occasion or purpose, no licence should be obtainable as a matter of course. The general rule should prevail. And where a special occasion or purpose is established it will be open to the D.S.P. or the A.S.P. to authorise in writing the use of a loud-speaker so as to amplify the sound beyond those limits. This, as I have been emphasising is essentially a police function and it is not at all desirable that further procedural provisions should be made enabling persons to take up such directions in appeal, except in cases where such direction is not based upon sufficient ground or has not proceeded from adequate consideration of the circumstances reported to the Police Officer. An illustration will make this point clear. If I am using a loud-speaker in my house and the sound emanating from it does not proceed beyond 50 feet, it would be normal use of the loud-speaker both within the meaning of the provisions of this clause as carried by this House originally and also as amended by the other House. But even so, if the use of that loud-speaker within the 50 feet limit is likely to annoy or to cause discomfort to persons residing in the vicinity, it should be open to the District Superintendent or the Assistant Superintendent of Police to issue a direction requiring me to so modify the use and operation of the loud-speaker as to abate the nuisance or the discomfort caused to persons residing in the vicinity. The Police Officer should be enabled by the provisions of this law to issue a suitable direction to me. Supposing such a direction proceeds upon wrong or false information lodged with the Police, then the person upon whose use of the loud-speaker within

the prescribed limits further restrictions are placed by the issue of a written direction should have a right of appeal. Such an appeal should not be merely a matter of form, but it should really be a matter of substance. In cases where restrictions upon the use of the loud-speaker are imposed so as to circumscribe these limits further, an appeal should lie. That is what I have been suggesting. While it is no doubt true that this Bill has been debated upon at considerable length both in this House during the previous session and in the other House during this session, it is not as if we have been able to do what would exactly meet the requirements of the case and so I have been saying that no other consideration should prevent us from dealing with the clauses of this Bill so as to provide for what we intend. Therefore, I suggest that these clauses be suitably modified so as to make them clearer and also free from those shortcomings and defects to which I adverted earlier in the course of my speech. Now Clause 38-B imposes two kinds of restrictions. It will be seen that in the original clause 38-B as passed in this House only one restriction was placed and that was: "Subject to the provisions of section 38-A no person shall use or operate, etc." That was how the clause was passed in this House. When this clause was considered in the other House, a further restriction was placed. Clause 38-B as carried in the other House and as it has now come before us for consideration reads like this:

"Subject to the provisions of section 38-A and subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area..."

These two provisions impose two separate kinds of restrictions upon the use of a loud-speaker by any person either in a building or in an open space. "Subject to the provisions of Section 38-A..." Section 38-A itself, as I pointed out, says: "Subject to the general or special orders of the Magistrate of the First Class..." I pointed out that it is not possible to specify what can be the

nature of such general or special orders of the Magistrate of the First Class having jurisdiction in any area with respect to the use of a loud-speaker, placing emphasis upon the likelihood of annoyance, disturbance, discomfort or injury being caused to the public generally or to the residents of the neighbourhood. Now, while the operation of Section 38-B is subject to those indeterminate factors arising out of the passing of a general or special order by the First Class Magistrate, there is a further restriction indicated once again, that it is subject to the general or special orders of the Magistrate of the First Class having jurisdiction in the area. I am trying to point out that this is not only devoid of significance but also amounts to an unmeaning repetition of what is already contained in Clause 38-A. Therefore, in seeking to introduce two new sections into the Police Act we should couch those sections in phraseology which will not be strange, unfamiliar or unmeaning but precise, clear, meaningful and properly related to and integrated with the rest of the provisions of the Police Act which we seek to amend by this Bill. That is what I am trying to suggest and I am sure the Home Minister with whose object I am entirely in sympathy, one hundred per cent in sympathy I can assure him, will see the point that I have raised and will deal with it in a manner that would rectify what to my mind seem to be the defects in these clauses as amended by the Legislative Council.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ (ಸಾಗರ-ಹೊಸ ನಗರ).—ಸ್ವಾಮಿ, ಈ ತಿದ್ದುಪಡಿ ಮನೂದೆ ಮೊದಲು ಸಭೆಯ ಮುಂದೆ ಬಂದಾಗ ನಾನು ಅದರ ವಿಷಯದಲ್ಲಿ ನನ್ನ ಅಭಿಪ್ರಾಯವನ್ನು ವ್ಯಕ್ತಪಡಿಸಿರಲಿಲ್ಲ. ಆಗ್ಗೆ ಈ ಮನೂದೆ ಈ ಸಭೆಯಲ್ಲಿ ಪಾಸಾದಮೇಲೆ ಇದು ಮೇಲಿನ ಮನೆಗೆ ಹೋಗಿ ಅಲ್ಲಿ ತಿದ್ದುಪಡಿಯಾಗಿ ಇಲ್ಲಿಗೆ ಬಂದಿರುವುದರಿಂದ ಈಗ ಮಾತನಾಡಲು ನನಗೊಂದು ಅವಕಾಶ ದೊರಕಿದೆ.

Sri H. SIDDAVEERAPPA.—With your permission, Sir.....

Mr. SPEAKER.—He is not speaking on the Bill. It is only by way of introduction. He may come to the point.

Sri H. SIDDAVEERAPPA.—I am seeking a ruling or a guidance from you

(Sri H. SIDDAVEERAPPA.)

with regard to the scope of the discussion at this stage. That is why I wanted to refer to.....

Mr. SPEAKER.—Sri Rama Rao has not moved his amendment. That is why I had put that question just before lunch. You can raise this point at the time he is going to move the amendment.

Sri H. SIDDAVEERAPPA.—Even now I find that many of Hon'ble Members have spoken or rather my friend Sri Rama Rao has spoken on some of the defects as it existed in the original Bill as passed in this House.

4 P.M.

ಶ್ರೀ ಎನ್. ಗೋಪಾಲಗೌಡ.—ಈ ತಿದ್ದುಪಡಿ ಮಸೂದೆಯನ್ನು ವಿಮರ್ಶಿಸಲು ಮತ್ತೊಂದು ಅವಕಾಶ ದೊರೆತಿದೆ. ಈಗ ತಾನೇ ಮಾತನಾಡಿ ಮುಗಿಸಿರುವ ಮಾನ್ಯ ಶ್ರೀ ರಾಮರಾಯರು ಈ ತಿದ್ದುಪಡಿ ಮಸೂದೆಯಲ್ಲಿರಬಹುದಾದ ಲೋಪದೋಷಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಈ ಸಭೆಯ ಮುಂಚ್ಚಿದಾರೆ.

Sri H. SIDDAVEERAPPA.—I want to know the scope of the discussion and I want your ruling on this. We are new to this. There is no precedent. This is the first Bill that has been sent back by the Legislative Council with some amendments. We have passed the Bill. The Bill went to the Legislative Council and the Legislative Council has sent it back with certain amendments only with regard to one clause. Now, the position is, as the Bill has already been passed by this House and as we are committed to some of the provisions as passed by this House, can we go back to the same clauses as passed by this House and try to find out or speak something for or against those provisions for which we have already given our assent? Perhaps you would enable us to know the scope of discussion at this consideration stage of the Bill as has been now brought here after having gone through in this House once before.

Mr. SPEAKER.—After all, this is the most important clause, in the Bill. It deals with the principles. That is why those Members take advantage of this position and offer their remarks. If further amendments as proposed by

Sri Rama Rao are taken, then, you can raise this point, but not at this stage.

You must confine yourself to this clause, Sri Gopal Gowda.

*Sri T. MARIAPPA (Mysore City—North).—I seek for a clarification from the Home Minister, Sir. Section 38 of the Bombay Police Act itself contains what objections Sri Rama Rao raised. The objections raised by him seem to be very relevant when we examine section 38 of the Bombay Police Act. There, that section itself empowers the Commissioner or the District Superintendent of Police to issue a direction and the penalty for the breach of that direction is also given in section 136. Therefore, these two sections are self-contained. The objection raised by Sri Rama Rao is to the effect that Section 38-A as amended does not give any power whatsoever to a magistrate and that the phrase "subject to the general or special orders" becomes superfluous having no meaning in that context. Unless there is a section preceding or unless there is a proviso to the effect that the magistrate has got powers in that locality, it will be out of tune with the very ingredients of that section. Therefore, would the Hon'ble Home Minister kindly clarify whether that particular clause agreed to in the Council is not superfluous? Suppose it goes before a court of law and somebody raises an objection that since the magistrate has not been empowered specially under this Act or any other Act for the time being he cannot act. It may be said that unless he is empowered, he cannot act. It is not as if a magistrate has got inherent jurisdiction to exercise general or special powers. He has no inherent jurisdiction. He has to act either under the Police Act or under the Criminal Procedure Code or under the Indian Penal Code. Only when he is vested with power in this legislation that section would be relevant and not otherwise.

Mr. SPEAKER.—That is why they have added "subject to the special or general orders of the magistrate...."

Sri T. MARIAPPA.—It is not so, Sir. A magistrate has no general or special powers under this Act. He has powers under the Penal Code or the Procedure Code or under the Police Act. Here Section 38 is self-contained. The Bombay Police Act makes it very clear.

Mr. SPEAKER.—38-B says “subject to the provisions of Section 38-A and subject to the general or special orders.....”

Sri T. MARIAPPA.—Again, the wrong is repeated, Sir. Therefore, this has practically no meaning. In the Bombay Police Act, the framers have not committed that error. They have merely stated :

“If the Commissioner or District Superintendent is satisfied from the report of an officer in charge of a Police Station or other information received by him that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or risk of annoyance, disturbance, discomfort or injury to the public or to any persons who dwell or occupy property in the vicinity, he may, by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating.....”

Therefore, Section 38 itself vests power in the Commissioner or the District Superintendent of Police. Here Section 38-A as amended by the Legislative Council merely makes mention of “subject to the general or special orders of the magistrate.” What is the power to make the general or special orders which he derives under any section of this Act or any other Act? Therefore, the adjectives, if I may say so, would be either superfluous or have no meaning in that context. I want a clarification from the Home Minister.

Sri H. SIDDAVEERAPPA.—May I answer at this stage, Sir?

Mr. SPEAKER.—You can reply after all the members who are eager to speak, finish.

Sri S. GOPALA GOWDA.—I also cannot understand the improvement upon this 38-A. “Subject to the general or special orders of the Magi-

strate of the First Class having jurisdiction in any area...” ಎಂಬುದನ್ನು ಸೇರಿಸಿದ್ದಾರೆ. ಈ ಸಭೆಯಲ್ಲಿ ಅಂಗೀಕೃತವಾದಹಾಗೆ—

“If the District Superintendent or the Assistant Superintendent or any Magistrate of the First Class having jurisdiction in any area is satisfied from the report of an officer in charge of a Police Station ..”

ಎಂದಿದೆ. ಈಗ ಈ ತಿದ್ದುಪಡಿ ಮಾಡಿರುವುದರಲ್ಲಿ—

“Subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area...”

ಎಂದಿದೆ, ಇದಕ್ಕೆ ಜನರ ಅಥವಾ ಸ್ವಪರ ಆರ್ಥ ಮಾಡುವುದಕ್ಕೆ ಅವರಿಗೆ ಬೇರೆ ಅಧಿಕಾರ ಕೊಡುವ ವಿಧಿ ಎಲ್ಲಿದೆ ಎಂಬುದನ್ನು ವಿಶದೀಕರಿಸಿದ ಹೊರತು ಶ್ರೀಮಾನ್ ಮರಿಯಪ್ಪನವರು ಹೇಳಿದಂತೆ, ಏನು improvement ಆಗಿದೆ ಎಂಬುದನ್ನು ಅರ್ಥಮಾಡಿ ಕೊಳ್ಳುವುದು ಕಷ್ಟವಾಗಿದೆ.

Mr. SPEAKER.—He has taken the hint from him.

Sri S. GOPALA GOWDA.—This is a relevant point where the Minister must clarify. Otherwise, we have to reject the amendment.

Mr. SPEAKER.—You were about to say something else.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—38-A ನಲ್ಲಿ ಕೂಡ “Subject to the general or special orders of the Magistrate...” ಎಂದು ಮತ್ತೆ ಅದನ್ನೇ repeat ಮಾಡಿದ್ದಾರೆ. 38-A ನಲ್ಲಿ ಏನು ದೆಯೋ ಅದನ್ನೇ ಮತ್ತೆ 38-B ನಲ್ಲಿಯೂ ಹೇಳಿದ್ದಾರೆ.

ಶ್ರೀಮಾನ್ ಶ್ರೀನಿವಾಸಯ್ಯಂಗಾರ್ಯರು ಇನ್ನೊಂದು ವಿಷಯವನ್ನೇ ತಿಳಿಸಿದರು. ಅದು ಕೂಡ ಬಹಳ ಮುಖ್ಯವೆಂದು ನಾನು ತಿಳಿದುಕೊಂಡಿದ್ದೇನೆ. ಈ ಮಸೂದೆ ಆಗಲೇ ಕಾನೂನು ಆಗುವ ಸಂಭವವಿದ್ದರೆ ಅನಂತರ ಏನು ತೊಂದರೆಯಾಗುತ್ತಿತ್ತು ಎಂಬುದನ್ನು ನೋಡಿ ಅಮೇರಿಕ ಅಪಶ್ಯಕ್ತಿಯಲ್ಲಿ ಈ ತಿದ್ದುಪಡಿ ಮಸೂದೆಯನ್ನು ತರಬಹುದಾಗಿತ್ತು. ಹಾಗೆ ಮಾಡದೆ ಅದು ಕಾನೂನಾಗುವುದಕ್ಕಿಂತ ಮುಂಚೆಯೇ ಇದು ಬಂದಿರುವುದರಿಂದ ಮತ್ತೆ ಈ ವಿಷಯವನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲನೆ ಮಾಡುವುದು ಅಗತ್ಯವೆಂದು ನಾನು ತಿಳಿದುಕೊಂಡಿದ್ದೇನೆ.

ಮೊದಲು ಈ ತಿದ್ದುಪಡಿ ಮಸೂದೆಯನ್ನು ಈ ಸಭೆಯ ಮುಂದೆ ತಂದಾಗ ಇದರಲ್ಲಿ ಅಡಗಿದ್ದ ಉದ್ದೇಶವೇನೆಂಬುದರ ಬಗ್ಗೆ ನಾವು ಏನು ತಿಳಿದುಕೊಂಡಿದ್ದೇವೆಂದರೆ, ಈ ಕೆಲವು ಹೊಟೆಲುಗಳಲ್ಲಿಯೂ ಮತ್ತು ಕೆಲವು ಅಡ್ವರ್ಚಿಂಗ್ ಮೆಂಟನವರೂ ಅದರಲ್ಲಿಯೂ ಮುಖ್ಯವಾಗಿ ಈ ನಗರಗಳಲ್ಲಿ ಮಾತ್ರ ಸಾಮಾನ್ಯವಾಗಿ ಈ ರೌಡ್ ಶ್ವೇತಕರುಗಳನ್ನು ಉಪಯೋಗ ಮಾಡುತ್ತಿದ್ದಾರೆ; ಅಂಥ ಕಡೆಗಳಲ್ಲಿ ಇದನ್ನು ದಿನ

(ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.)

ವೆಲ್ಲಾ ಸದಾ ಒಂದೇ ನಮವಾಗಿ ಉಪಯೋಗ ಮಾಡುತ್ತಿದ್ದಾರೆ, ಅದರಿಂದ ಅಕ್ಕಪಕ್ಕದಲ್ಲೂ ಜನಗಳಿಗೆ ಮತ್ತು ಇತರ ಸಾರ್ವಜನಿಕರಿಗೆ ಆಗುತ್ತಿದ್ದಂಥ ತೊಂದರೆಗಳನ್ನು ರೆಸ್ಪಿಕ್ಟ್ ಅಥವಾ ಒಂದು ರೆಗ್ಯುಲೇಟ್ ಮಾಡಬೇಕೆಂಬ ಉದ್ದೇಶದಿಂದ ಇದನ್ನು ತಂದಿದ್ದಾರೆಂದೂ, ಅದು ಏನಹ ಮತ್ತು ಬೇರೆ ಉದ್ದೇಶವೇನೂ ಇರುವುದಿಲ್ಲವೆಂದೂ ನಾವು ತಿಳಿದುಕೊಂಡಿದ್ದೆವು. ಆದರೆ ಈಗ ಇದು ದಿನದಿನಕ್ಕೂ ಬದಲಾವಣೆ ಹೊಂದಿದಂತೆ ಇದು ತಾಳುತ್ತಿರುವ ಸ್ವರೂಪವನ್ನು ನೋಡಿದರೆ ಬಹುಶಃ ಈ ಲೌಡ್‌ಸ್ಪೀಕರ್‌ಗಳ ಉಪಯೋಗವನ್ನು ಪ್ರತಿಬಂಧಿಸತಕ್ಕದ್ದು, ಹಾಗೆ ಕೇವಲ ಒಂದೆರಡು ಸಂದರ್ಭಗಳಲ್ಲಿ ಮಾತ್ರವೇ ಅಲ್ಲದೆ ಇದರ ಉಪಯೋಗವನ್ನು ಜನರ ಸಾಮಾನ್ಯವಾಗಿ ಇತರ, ಯಾವ ಒಂದು ಮದುವೆ, ಮುಂಜಿ ಅಥವಾ ಸಾರ್ವಜನಿಕ ಸಮಾರಂಭ ಇತ್ಯಾದಿಗಳಲ್ಲೆಲ್ಲಾ ಉಪಯೋಗಿಸಿದರೂ, ಅಲ್ಲೆಲ್ಲಾ ಇದರ ಪ್ರತಿಬಂಧವಿದ್ದೇ ಇರುತ್ತದೆಂಬುದು ಕಂಡುಬರುತ್ತಿದೆ. ಹಾಗೆ ಒಂದು ವೇಳೆ ಯಾರಾದರೂ ಇವುಗಳನ್ನು ಉಪಯೋಗ ಮಾಡತಕ್ಕ ಸಂದರ್ಭ ಬಂದಾಗಲಿ ಅವರಿಗೆ ಆಗದೆ ಇರತಕ್ಕವರು ಅಂಥದಕ್ಕೆ ಇಷ್ಟಪಡದೆ ಹೋದರೆ, ಈ ಕಾನೂನಿನ ಅವಕಾಶವನ್ನು ಉಪಯೋಗಿಸಿಕೊಂಡು, ಅವರ ಮೇಲೆ ಒಂದು ದೂರನ್ನು ಕೊಟ್ಟು ಇದನ್ನು ರೆಸ್ಪಿಕ್ಟ್ ಮಾಡಿಸಬಹುದು. ಇಂಥ ಕೇವಲ ಸಾಮಾನ್ಯ ವಿಚಾರಗಳಿಗೂ ಕೂಡ ಜನರು ಹೋಗಿ ಲೈಸೆನ್ಸ್ ಪಡೆಯಬೇಕೆಂದರೆ ಇದರಿಂದ ಜನರಿಗೆ ಬಹಳ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಈಗ ಉದಾಹರಣೆಗೆ ಒಂದು ವಿಷಯ ಹೇಳಬೇಕೆಂದರೆ, ಈಗ ಕೆಲವು ಕಡೆ 144ನೆಯ ಸೆಕ್ಷನ್ ಜಾರಿಯಲ್ಲಿರುತ್ತದೆಂದು ಭಾವಿಸೋಣ. ಅಂಥ ಕಾಲದಲ್ಲಿ ನಾವೇನಾದರೂ ಆ ಸ್ಥಳದಲ್ಲಿ ಒಂದು ಭಾಷಣ ಮಾಡಬೇಕೆಂದರೆ ಅಥವಾ ಬಹಿರಂಗ ಸಭೆ ಇತ್ಯಾದಿಗಳನ್ನು ನಡೆಸಬೇಕೆಂದರೆ, ಲೈಸೆನ್ಸ್ ಕೊಡತಕ್ಕ ಅಧಿಕಾರಿಗಳು ನಮಗೆ ಲೈಸೆನ್ಸ್ ಕೊಡುವುದಿಲ್ಲವೆಂದು ಹೇಳಿದರೂ ಹೇಳಬಹುದು. ಇಲ್ಲವೇ ಅನೇಕ ವೇಳೆ ಅವರು ನಮಗೆ ಸಕಾಲದಲ್ಲಿ ಈ ಲೈಸೆನ್ಸ್ ನನ್ನು ಕೊಡುವುದೇ ಇಲ್ಲ. ಅಂಥ ಸಂದರ್ಭಗಳಲ್ಲೇ ನಾವು ಬೇರೆ ಕಡೆಯಿಂದ ಯಾರನ್ನಾದರೂ ಆ ಸ್ಥಳದಲ್ಲಿ ಭಾಷಣ ವ್ಯಕ್ತಿಗಳನ್ನು ಮಾಡುವುದಕ್ಕಾಗಿ ಕರೆಸಿಕೊಂಡಿರುತ್ತೇವೆ. ಅಷ್ಟೇ ಅಲ್ಲದೆ ಅದಕ್ಕೆ ಕಾಲವನ್ನು ನಹ ನಾವು ಕ್ಷಿಪ್ರವಾದಿಕೊಂಡುಬಿಟ್ಟಿರುತ್ತೇವೆ. ಆ ಬಗ್ಗೆ ಸಾರ್ವಜನಿಕರಿಗಿಲ್ಲಾ ತೀವ್ರವೆಸೆ ನಹ ಕೊಟ್ಟು ಬಿಟ್ಟಿರುತ್ತದೆ, ಅದರಂತೆ ಜನರಲ್ಲರೂ ಒಂದು ಸೇರಿರುತ್ತಾರೆ. ಅಂಥ ಸಂದರ್ಭಗಳಲ್ಲಿ ಸಕಾಲಕ್ಕೆ ಲೈಸೆನ್ಸ್ ನ ಸಿಕ್ಕದೆಹೋದರೆ ಆಗ ಏನು ಮಾಡಬೇಕು? ಇಂದು ನಾವಿರತಕ್ಕದ್ದು 'ಲೌಡ್‌ಸ್ಪೀಕರ್' ಯುಗ. ಪ್ರತಿಯೊಂದು ಮನರಂಜಕ ಸಂದರ್ಭಗಳಲ್ಲಿಯೂ ಈ ಲೌಡ್‌ಸ್ಪೀಕರುಗಳನ್ನು ಉಪಯೋಗಮಾಡತಕ್ಕದ್ದು ಒಂದು ಸಾಮಾನ್ಯ ವಾದಿಕೆಯಾಗಿ ಬಂದುಹೋಗಿದೆ. ಇಂಥ ಪ್ರತಿಯೊಂದು ಸಂದರ್ಭಗಳಲ್ಲಿಯೂ ಕೂಡ ನಾವು ಲೈಸೆನ್ಸ್ ನನ್ನು ಪಡೆದೇ ಈ ಲೌಡ್‌ಸ್ಪೀಕರುಗಳನ್ನು ಉಪಯೋಗಿಸಬೇಕೆಂದು. ಹಾಗಿಲ್ಲದ ಪಕ್ಷಕ್ಕೆ ಯಾರು ಹಾಗೆಯೇ ಇವುಗಳನ್ನು ಉಪಯೋಗ ಮಾಡುತ್ತಾರೋ ಅವರು ಜೈಲಿಗೆ ಹೋಗಬೇಕು, ಇಲ್ಲವೇ ಜುರ್ರಾನೆ ತೆರಬೇಕೆಂಬುದಾಗಿಯೂ ಇದರ ಬಗ್ಗೆ ಒಂದು ಮಿನಿಸ್ಟರ್ ಕ್ಲಾಜನ್ನು ಹಾಕಿದ್ದೀರಿ. ಅದುದರಿಂದ ನಾವು ಈ ದಿವಸ ಇಂಥ ಒಂದು ಕಾನೂನನ್ನು ಪಾಸ್ ಮಾಡಿ ಸರ್ಕಾರ

ದವರು ಜನರಮೇಲೆ ಇದನ್ನು ಉಪಯೋಗಿಸಲು ಅವಕಾಶವಾಗತಕ್ಕ ರೀತಿಯಲ್ಲಿ ಈ ದಿವಸ ಈ ಮನೂವೆಗೆ ನಾವೇನಾದರೂ ನಮ್ಮ ಒಟ್ಟನ್ನು ಕೊಟ್ಟರೆ ಇದರಿಂದ ತಮ್ಮ ಉದ್ದೇಶವನ್ನು ತಮಗೆ ಆಗದೆ ಇರತಕ್ಕವರ ಮೇಲೆ ಈ ಮೂಲಕ ಸಾಧಿಸಿಕೊಳ್ಳಲು ಒಂದೆ ಅವಕಾಶವನ್ನು ನಾವು ಮಾಡಿಕೊಡುತ್ತಿದ್ದೇವೆಯೋ ಏನೋ ಎನ್ನುವ ಒಂದು ಅನುಮಾನ ಕೂಡ ಬಂದಿದೆ. ಮೊದಲು ನಮ್ಮ ಮುಂದೆ ತರಲಾಗಿದ್ದ ತಿದ್ದುಪಡಿ ಮನೂವೆಯಲ್ಲಿ ಏನು ಅಡಕವಾಗಿತ್ತೆಂದರೆ, ಈ ಲೌಡ್‌ಸ್ಪೀಕರುಗಳ ಉಪಯೋಗವನ್ನು ಈ ಹೋಟಲುಗಳಲ್ಲಿ ಒಂದೇ ಸಮನಾಗಿ ದಿನವೆಲ್ಲಾ ಉಪಯೋಗಿಸುತ್ತಿದ್ದರೆ ಅಂಥ ಉಪಯೋಗದಿಂದ ಆ ಅಕ್ಕಪಕ್ಕದ ಮನೆಗಳಲ್ಲರತಕ್ಕ ಜನರಿಗೆ ಒಂದು ತೊಂದರೆಯಾಗುತ್ತದೆ ಅಂಥದನ್ನು ರೆಸ್ಪಿಕ್ಟ್ ವಃ ಡಬೇಕೆಂಬ ಉದ್ದೇಶದಿಂದಲೂ ಮತ್ತು ಅಸ್ವತ್ಯಗಳ ಅಕ್ಕಪಕ್ಕಗಳಲ್ಲಿ ಈ ಲೌಡ್‌ಸ್ಪೀಕರುಗಳನ್ನು ಉಪಯೋಗಿಸಿದರೆ ಅಲ್ಲರತಕ್ಕ ರೋಗಿಗಳಿಗೆ ಇದರಿಂದಾಗತಕ್ಕ ತೊಂದರೆಯನ್ನು ತಪ್ಪಿಸುವುದು, ಇಲ್ಲವೇ ಒಂದು ಸಂಗೀತ ಕಛೇರಿ ಅಥವಾ ಸಂಗೀತ ಪಾಠಶಾಲೆ ಇತ್ಯಾದಿಗಳು ಇರತಕ್ಕ ಸ್ಥಳದ ಅಜು ಬಾಜುಗಳಲ್ಲಿ ಇವುಗಳಿಂದ ಒಂದು ಗೊಂದಲ, ಗಲಾಟೆ ಆಗುತ್ತಿದ್ದಾಗ ಇಂಥದನ್ನು ತಡೆಗಟ್ಟುವುದು-ಇಂಥ ಉದ್ದೇಶದಿಂದಲೂ, ಎಂದರೆ ಕೆಲವು ಪರಿಸ್ಥಿತಿಗಳಲ್ಲಿ ಸಂದರ್ಭಗಳಲ್ಲಿ ಮಾತ್ರವೇ ಎಲ್ಲ ಇವುಗಳ ಉಪಯೋಗದಿಂದ, ತಮ್ಮ ವಿಧಿಯಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ, ಒ-ದ annoyance, disturbance, discomfort or injury or likelihood of annoyance, disturbance or discomfort or injury ಇತ್ಯಾದಿಗಳು ಆಗುವಂಥ ಸಂದರ್ಭಗಳಿದ್ದರೆ ಅವುಗಳನ್ನು ತಪ್ಪಿಸಲು ಇದನ್ನು ತಂದಿದೆ ಎಂದು ತಿಳಿಸಿದ್ದೀರಿ. ತಾವು ಹೀಗೆ ತಿಳಿಸಿರುವುದರಿಂದ ಬಹುಮಟ್ಟಿಗೆ ಈ ಎಲ್ಲಾ ಪದಗಳ ಅರ್ಥವೂ ಆ ಪದಗಳನ್ನು ಯಾವ ರೀತಿ interpret ಮಾಡುತ್ತಾರೋ ಆ ರೀತಿ ಅದು ಹೋಗುತ್ತದೆ. ಇಂಥ ಒಂದು ಕಾನೂನನ್ನು ನಾವು ಪಾಸ್ ಮಾಡುವುದಾದರೆ ನಾವು ಒಂದು ದೊಡ್ಡ ಅನ್ವಯವನ್ನೇ ಪೋಲಿಸಿನವರ ಮತ್ತು ಇತರ ಸರ್ಕಾರಿ ಅಧಿಕಾರಿಗಳ ಕೈಗೆ ಕೊಟ್ಟು ಹಾಗಾಗುತ್ತದೆ. ಅನೇಕ ವೇಳೆ ಇದು ದುರುಪಯೋಗವಾದರೂ ಆಗಬಹುದು.

Sri H. SIDDAVEERAPPA.—By what amendment? As a matter of fact, the Upper House has restricted the scope rather than enlarging it.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ಈ ಆಮೆಂಡ್‌ಮೆಂಟ್‌ಗಳನ್ನು ಉಪಯೋಗ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಕೊಟ್ಟಿಲ್ಲ. ಆದರೆ ಮೇಲ್ಮನೆಯವರು ಏನೊಂದು ಹೊಸ ವಿಷಯವನ್ನು ಇದಕ್ಕೆ ಸೇರಿಸುತ್ತಾರೆಂದರೆ, ಇದರಲ್ಲಿ ಪೋಲೀಸ್ ಅಧಿಕಾರಿಗಳು ಕೊಡಬೇಕೆಂದು ಹೇಳಲಾಗಿದ್ದ ಲೈಸೆನ್ಸ್ ನನ್ನು ಅವರು ಇನ್ನೂ ಸ್ವಲ್ಪ ಮುಂದೆ ಹೋಗಿ, ಅಂಥ ಒಂದು ಅಧಾರಿಟಿಯನ್ನು ಫೋಸ್ ಕ್ಲಾಸ್ ಮಾಡಿಸ್ಪೀಕರ್‌ರವರಿಗೂ ಅನ್ವಯಿಸುವಂತೆ ಒಂದು ಪದವನ್ನು ಹೆಚ್ಚಿಗೆ ಸೇರಿಸಿದ್ದಾರೆ. ಎಂದರೆ ಈಗಾಗಲೇ ಶ್ರೀ ಎಂ. ವಿ. ರಾಮರಾಯರು ತಿಳಿಸಿದಂತೆ, ಹೀಗೆ ಎ. ಎಸ್. ಪಿ., ಡಿ. ಎಸ್. ಪಿ. ಗಳಿಗೆ ದ್ವಂದ್ವ ಅಧಿಕಾರವನ್ನು ಒಬ್ಬ ಅಸಿಸ್ಟೆಂಟ್ ಕಮಿಷನರ್ ಗ್ರೇಡಿನಲ್ಲರತಕ್ಕ ಒಡಿಷಿಯರ್ ಅಧಿಕಾರಿಗೂ ಕೊಡಬೇಕೆಂದು ಹೇಳಿರತಕ್ಕದ್ದರಿಂದ ಪಾರ್ಷ್ವಗಳಿಗೆ ಅಂಥ ಒಂದು ರಿಡ್ರೆಸ್ ದೊರೆತಂತಾಗಿದೆಯೆಂದು ಹೇಳುವುದಕ್ಕಾಗುವುದಿಲ್ಲ. ಹೀಗೊಂದು ಕಾನೂನು

ಮಾಡುವುದರಿಂದ ಅನೇಕ ವೇಳೆ ಸಾರ್ವಜನಿಕರಿಗೆ ತುಂಬ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಆದಕಾರಣ ಅನೇಕ ರಿಗೆ ಇದರ ಬಗ್ಗೆ ಭಿನ್ನಾಭಿಪ್ರಾಯವಿರುತ್ತದೆ.

ಈ ಸಂದರ್ಭದಲ್ಲಿ ಶ್ರೀ ಆರ್. ಕೆ. ನಾರಾಯಣ ಎಂಬತಕ್ಕವರು ಬರೆದಿರುವಂಥ ಒಂದು ಸಣ್ಣ ಆರ್ಟಿಕಲ್ನ ಒಂದು ವಿಷಯ ಜ್ಞಾಪಕಕ್ಕೆ ಬರುತ್ತಿದೆ. ಅದೊಂದು ಸೆಟ್ಟಿಂಗ್ ಮಾದರಿ ಇದೆ. ಅವರು ಬರೆದ ರೀತಿ "ಲಾಡ್‌ಸ್ಟ್ರೀಕರ್ ಹಾವಳಿ ಇತ್ತೀಚೆಗೆ ನಮ್ಮ ದೇಶದಲ್ಲಿ ಹೆಚ್ಚಾಗುತ್ತಿದೆ. ಯಾರಾದರೂ ಪುಣ್ಯಾತ್ಮರು ಈ ಲಾಡ್‌ಸ್ಟ್ರೀಕರ್ ಎಂಬುದು certain volume or pitch ಗಿಂತಲೂ ಮೇಲೆ ಹೋದರೆ ಅದು ಬರನ್ಸ್ ಆಗುವಂಥ ಒಂದು ಇನ್‌ಸ್ಟ್ರಮೆಂಟನ್ನು ಕಂಡುಹಿಡಿದರೆ, ಅಂಥವರಿಗೆ ಸರ್ಕಾರ ಎಷ್ಟೋ ಸಾವಿರ ರೂಪಾಯಿಗಳನ್ನು ಬಕ್ಷ್‌ಪ್ ಆಗಿ ಕೊಡಬಹುದಾಗುತ್ತದೆ" ಎಂದು ಒಂದು ಸೆಟ್ಟಿಂಗನ್ನು ಬರೆದಿದ್ದಾರೆ. ಆ ರೀತಿ ಸಾಮಾನ್ಯವಾಗಿ ಸಾರ್ವಜನಿಕರಾಗಲೂ ತೊಂದರೆಯಾಗಬಾರದು ಎನ್ನುವ ಉದ್ದೇಶಕ್ಕೆ ಯಾರೂ ಭಿನ್ನಾಭಿಪ್ರಾಯವಿಲ್ಲ. ಪ್ರತಿಯೊಂದು ಸಾರ್ವಜನಿಕ ಸಭೆಯಲ್ಲಿ ಭಾಷಣ ಮಾಡತಕ್ಕವರು ಲಾಡ್‌ಸ್ಟ್ರೀಕರ್ ಅಥವಾ ಇತರ ಸಾಮಗ್ರಿಗಳನ್ನು ಉಪಯೋಗಿಸುವ ವಿಷಯ ಮಾಡುವುದಾದರೆ ಆಗ ಇದರಿಂದ ಬಹಳ ಕಷ್ಟವಾಗುತ್ತದೆ. ಅಲ್ಲದೆ 50 ಅಡಿ, 100 ಅಡಿ ದೂರದವರಿಗೆ ಮಾತ್ರ ಕೇಳಿಸಬೇಕೆಂದು ಹೇಳತಕ್ಕದ್ದಾಗಲಿ ಅಥವಾ ಇಷ್ಟೇ ದೂರದವರಿಗೆ ಕೇಳುತ್ತದೆಂದು ಆಳತಮಾಡ ಸ್ಪಷ್ಟಪಡಿಸುವುದೂ ಕೂಡ ತೀರ ಕಷ್ಟವಾದ ಕೆಲಸವಾಗಿದೆ. ಆದರೆ ಈಗ ಈ ತಿದ್ದುಪಡಿ ಮನೂವೆ ಯಾವುದೋ ಒಂದು ಉದ್ದೇಶದಿಂದ ನಮ್ಮ ಮುಂದೆ ಬಂದಿರತಕ್ಕ ಸಂದರ್ಭವನ್ನು ಉಪಯೋಗಿಸಿಕೊಂಡು, ಇದರಲ್ಲಿ ಕೆಲವು ರೋಪವೋಪಗಳಿರುವುದರಿಂದ, ಸಾಮಾನ್ಯವಾಗಿ ನಮಗೆ ಹಾಗೆ ಒಂದು ಉದ್ದೇಶವಿಲ್ಲದಿದ್ದರೂ ಕೂಡ, ಸಾರ್ವಜನಿಕರಿಗೆ ತೊಂದರೆಯನ್ನೂ ಆಡಳಿತೀಯನ್ನೂ ಉಂಟುಮಾಡಿ, ಅವರು ಪದೇ ಪದೇ ಕೋರ್ಟಿಗೆ ಹೋಗತಕ್ಕಂಥ ಪರಿಸ್ಥಿತಿಯನ್ನೂ ಮತ್ತು ಅವರು ಜೈಲಿಗೆ ಹೋಗತಕ್ಕಂಥ ಪರಿಸ್ಥಿತಿಯನ್ನೂ ಈ ಬಿಲ್ಲಿನ ಮೂಲಕ ಉಂಟುಮಾಡಬಾರದು. ಇಷ್ಟೇ ಅಲ್ಲದೆ ಇದನ್ನು ಅಧಿಕಾರಿಗಳು ಅನೇಕ ವೇಳೆ ಅವರಿಗೆ ಇಷ್ಟವಿಲ್ಲದಿದ್ದರೆ, ಇತರರು ಭಾಷಣಮಾಡದೆ ಇರಲಿ ಎಂದೋ ಅಥವಾ ಇತರರು ಒಂದು ಆರೀತಿ ಸಭೆಯನ್ನು ಮಾಡಬೇಕೆಂದರೆ, ಅಥವಾ ಇತರರ ಮನೆಯಲ್ಲಿ ಮದುವೆ, ಮುಂಜಿ ಇತ್ಯಾದಿ ಕಾರ್ಯಗಳು ನಡೆಯದೆ ಇರಲಿ ಎಂದು ಇವುಗಳಿಗೆಲ್ಲಾ ಅಡ್ಡಿ ಆತಂಕಗಳನ್ನುಂಟುಮಾಡಬಹುದು: ಅದುದರಿಂದ ಇವುಗಳಿಗೆಲ್ಲಾ ಒಂದು ಸೆಫ್‌ಗಾರ್ಡ್ ಅಥವಾ ಮುಂಜಾಗ್ರತೆ ಇಟ್ಟುಕೊಂಡು, ತಾವು ಈಗ ಈ ಮನೂವೆಯನ್ನು ಪಾಸ್ ಮಾಡಿಸುತ್ತೀರೆಂದು ನಾನು ನಂಬಿದ್ದೇನೆ.

*Sri M. LINGANNA (Nanjangud).—

Though two sections were once again considered by the Legislative Council and though they were redrafted by them or amended by them. I believe that there is no improvement whatsoever in 38-A and 38-B as passed and approved by the Legislative Assembly, for the following reasons: that 38-A passed by the Legislative Assembly in the last session

provides that District Superintendent or Assistant Superintendent or Magistrate of the First Class should be given power in this particular manner, but here 38-A, as amended by the Legislative Council, is tried to be improved upon by the following phrase:

"Subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area..."

So, here, they have made it a condition that the order of the District Superintendent or the Assistant Superintendent would be subject to the special or general orders of the Magistrate. As has been pointed out by many Hon'ble Members, the particular phrase 'general or special order' has not been clearly defined anywhere either in this particular amending Bill or in any portion of the Police Act. But that apart, there is also another lacuna, namely, that nowhere in the Police Act or in any other Penal Statute that we are now operating today, have we conferred such special or general powers on the Magistrate. So, in the absence of any specific provision to the effect that any Magistrate can pass a general or special order or in the absence of any such provision contained in the Police Act, the particular phrase becomes meaningless. They say in 38-B 'any person aggrieved, under sub-section (1) may appeal to the Magistrate of the First Class having jurisdiction in that area.' So, if that particular portion is read with 38-A (2), then it becomes still more confusing and meaningless, because they say in one breath that the order of the District Superintendent or Assistant Superintendent is subject to the general or special orders of the Magistrate and in the same breath they say that the First Class Magistrate can sit in judgment over the order passed by the Assistant Superintendent or the District Superintendent of Police. This is meaningless. Further, they say in 38-B:

"Subject to the provisions of section 38-A and subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area..."

(Sri M. LINGANNA).

they go on like that and in the end they say—

“any person aggrieved by an order of the District Superintendent or by such other gazetted officer empowered by the Government under sub-section (1) may appeal to the Magistrate of the First Class having jurisdiction in that area.”

Again, this phraseology also when viewed taking these two clauses together becomes meaningless. It looks to me that 38-A becoming blind is tried to be led by 38-B. It is just like one blind man leading another blind man. So, this amendment is to the effect that only one particular authority should be vested with this particular power; even that phraseology, I believe, has no meaning whatsoever. Granting that the Legislative Council had in its mind that only the police people should be vested with this power, they ought to have deleted the words that precede the words “District Superintendent of Police or Assistant Superintendent”.

Then, they have also provided for appeal against the order of the District Superintendent or the Assistant Superintendent. Even granting that the intention of the Legislative Council is that the power can be only vested in the gazetted executive, the District Superintendent or the Assistant Superintendent, the phraseology contained in 38-A and B, has lost its meaning because of the reasons that I mentioned previously. So, 38-A and 38-B as has been amended by the Legislative Council, probably, do not hold water and they need further amendment. For that particular matter, I believe, there are amendments and when the time arises, when amendments are moved, I believe the Minister in charge of the Bill may consider those amendments in the light of the remarks passed by several Members, because the phraseology of the two sections becomes meaningless and confusing and one tries to overlap the other.

*Sri H. SIDDAVEERAPPA.—Sir, I have heard with very rapt attention

the speeches made by my learned friends and the points raised therein. The one point that has been raised by my friend Sri M. V. Rama Rao is, that by the Upper House introducing the amendment, these words, namely, “subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area” convey no meaning, if I have understood him correctly; if I am wrong, I request my friend to correct me. Sir, the elders thought over these clauses for nearly three days in the Select Committee, and it was also discussed at very great length on the floor of the House. Sir, I have great respect for the wisdom, learning, and scholarship of that House. They have considered over that whole clause and the thing that was exercising in their mind most was, they were feeling,—I do not say I share their feelings in this behalf,—that unfettered powers will be vested in the Police Officers if the Bill as passed by the Legislative Assembly was agreed to by them. That was the tenor of the argument that was put forward by them. They were very very particular that any power that is exercised by the police officers under this amendment Bill will have to be subject to over—all control or supervision or superintendence, call it by whatever name, of the Magistrate of the First Class having jurisdiction in that particular area where the Police Officers exercise their power. It is with that object in view, I cannot say that I do not know their mind because I was present throughout both in the Select Committee and also when the Bill was discussed on the floor of the House, they thought that if these additional words or if these additions are added that may give a measure of security or a sense of safety to the public. Sir, my friends asked, under 38-A and 38-B as passed by the Council, “what is the significance or what is the meaning of these words ‘subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area’?” They even doubted whether they are a jumble of words not conveying any meaning. With utmost respect I may say, Sir, I have the

opinion of the experts on drafting. With regard to that, it was said that the Magistrate has to use that general or special power only with respect to matters that come within the purview of 38-A or 38-B wherever that clause comes. Sir, in my opinion, those words carry nothing more, nothing less, than what I submitted. After all, even laws are framed by ordinary men for the benefit of ordinary men. That is what the authors with regard to the framing of laws say. With regard to these words I may invite the attention of the Hon'ble Members that it is not totally new so far as the use of these words, 'subject to general or special order' is concerned. In the very same Police Act in Section 24, Section 36(1), Section 39(1), Section 46(1), there, in a general sense more or less, the same words are found. As I have understood it, whenever it is said 'subject to the general or special orders of the Magistrate of the First Class having jurisdiction in that area', the Magistrate seizes of that power to exercise under that particular clause in which these words have been used. That can be seen in every section in the Police Act. Here, the effect of it would be this. Supposing a Magistrate says that in a particular town, in a particular month, in a particular street or in a particular time, this thing should not be done; supposing on a shandy day or on a particular day from such and such an hour to such and such an hour he prohibits this; the executive officers who exercise that power will have to exercise their discretion within the limits circumscribed by the Magistrate.

4-30 P. M.

Supposing the Magistrate does not at all try to exercise that power although he has that power; the D.S.P. or the A.S.P. or the executive officer whoever he is who will be specially empowered by the Government will exercise that power to the best of his discretion. Supposing the Magistrate says "I don't do it", he cannot say "I have discretion and therefore I will do". It is in that sense, and it is with a view to have that kind of check or control or supervision the Upper House has introduced these words.

Sri J. MOHAMED IMAM (Jagalur).—Can the Magistrate issue an order without relying upon any express power being conferred upon him?

Sri H. SIDDAVEERAPPA.—I believe that there are certain powers to be exercised by the officers under 38-A and 38-B. These powers specified 38-A and 38-B will have to be exercised by the concerned officers who have been empowered subject to the general or the special control or supervision, call it by whatever name you wish—these are legal expressions—as may be specified by the Magistrate for the exercise of that power. In other words it means that if any officer has to exercise his power either under 38-A or under 38-B, he will have to so exercise it subject to such control the Magistrate may in his discretion deem fit to exercise, and not otherwise. Supposing the Magistrate does not choose to exercise any power, either general or special; still the D.S.P. will have the unfettered discretion to exercise it to the best of his knowledge. And it is in that way the Upper House thought that if these words are to be incorporated, it is going to have a check or supervision over the exercise of this power. That is the idea.

Sri J. MOHAMED IMAM.—Is it not necessary to define what the general and what the special powers are?

Sri T. MARIAPPA.—It is not merely describing what the powers are but he must be actually invested with the powers. Then only he can exercise those powers.

Sri H. SIDDAVEERAPPA.—I submit that these powers have been invested under 38-A as they are. What are the powers referred to under Section 38-A? I will confine myself to reading the particular portion.

"he may, by a written order, issue such direction as he may consider necessary to any person for preventing, prohibiting, controlling or regulating the incidence or continuance in or upon any premises or place of —"

These are the powers to be exercised by the D.S.P. or the A.S.P.

So far as the exercise of these powers by the Police Officers is concerned, with regard to that particular exercise of

(Sri H. SIDDAVEERAPPA.)

that power as has been specified in Section 38-A, only with regard to that, the Magistrate may by a special order or by a general order issue such direction as he deems fit. That is all it vests. Now, the natural meaning of that expression, and probably looking into the context in which it has been put, is—that it does not convey any other sense,—it only means: supposing the Police Officer wants to exercise his power under 38-A or even under 38-B, he has some specified powers and it cannot be gain-said, he has to exercise it. Subject to that control, the Magistrate may choose to exercise his power. It is not binding, it is not obligatory on the Magistrate.

Sri J. MOHAMED IMAM.—Are they original powers or are they appellate powers? I will give a concrete instance. Supposing a certain nuisance is caused by a vehicle or by an instrument. Can the Magistrate himself take the initiative and ban it? Or has he concurrent jurisdiction? Or can he take it into cognisance and revise it without an appeal being preferred to him?

Sri H. SIDDAVEERAPPA.—So far as the first clause is concerned, it gives original power. I may illustrate one case. There is a marriage season in a particular area where this has come into force. The Magistrate may say: 'during this season if anybody uses this vocal or instrumental music or if any music performance takes place, you should not issue any order under this clause'.

Sri T. MARIAPPA.—How can he issue that order unless he is empowered under this clause? The Magistrate is not empowered. The D.S.P. is empowered. My friend forgets that. I have no objection if in the first para he makes it very clear and says that the Magistrate of the First class is empowered to exercise that power and under that power he can issue general orders. That is something. Otherwise, it does not make any meaning.

Sri H. SIDDAVEERAPPA.—I believe it makes meaning in this way, Sir. When the D.S.P. or the A.S.P. has exercised that power specified therein, any control by the Magistrate refers

only to that particular power that has been specified there. That has been clearly stated there. It does not refer to the power that can be exercised by the D.S.P. or the A.S.P. Here under the particular clause, clause 38-A and 38-B, the Police Officer or a Gazetted Officer will be empowered to discharge certain functions. It is only with regard to certain functions that have been clearly ear-marked here, that the Magistrate may issue such direction if he deems it necessary.

Sri M. LINGANNA.—Shall I seek an information about this aspect, Sir? So, in that case, is it the meaning by this particular provision that reports from lower officers go simultaneously to the Assistant Superintendent the District Superintendent of Police and also to the Magistrate?

Sri H. SIDDAVEERAPPA.—It may or may not, as you see.

Sri M. LINGANNA.—Then how can he make a general or special order, Sir?

Sri H. SIDDAVEERAPPA.—I have already illustrated this point, Sir. I shall repeat it. There is a marriage season in a particular month. The Magistrate may say 'look here, in this particular month, you should not pass any order under this Act.' Such a general order or a special order which he deems fit according to the circumstances of the case he can make.

Sri K. PUTTASWAMY (Srirangapatna).—Sir, would not 38-A confer appellate jurisdiction on the Magistrate to order that he must pass either general or special order?

Sri T. MARIAPPA.—Yes, it becomes, Sir, an appellate jurisdiction.

Sri H. SIDDAVEERAPPA.—It is better we understand the position very clearly. The Magistrate may or may not pass an order. He may pass an order or he may not pass an order, or if he so chooses, for a particular period he may pass an order.

Sri K. PUTTASWAMY.—In cases where he passes orders?

Sri H. SIDDAVEERAPPA.—In cases where he passes an order and where an executive officer has exercised his discretion and passed any order, it is open to the Magistrate to find out

whether that discretion has been properly exercised or not. It does not prevent the same officer from exercising both original and appellate power. I think that is known to the Hon'ble Member.

Sri K. PUTTASWAMY.—Not in the same matter any way.

Sri J. MOHAMED IMAM.—Our elders have made it more complicated any way.

MR. SPEAKER.—Now, Sri Kemparaj will enlighten us.

Sri B. T. KEMPARAJ (Bangalore South-Scheduled Castes).—Sir, regarding this expression 'special or general order', the Hon'ble Minister said that the Magistrate should specify under what circumstances the D.S.P. or the A.S.P. may exercise the power. Then it comes to this, that the Superintendent of Police on whom this special power is conferred by the Magistrate, may exercise such power; or when such order passed by the Superintendent of Police happens to be contrary to the desire of a person, then he may go to the Magistrate in appeal. Then it comes to this, Sir. The Magistrate who has specified certain powers that are to be exercised by the D.S.P. as well as the A.S.P. will have to pass orders once again against the orders passed by the Superintendent of Police or the A.S.P. That is how that clause reads.

Therefore, it is necessary that a specific jurisdiction should be conferred on the powers of the Magistrate and the Magistrate cannot play the dual part both as an executive officer, that is, exercising the power conferred on the executive officer, as well as appellate authority. Then the order which the Magistrate passes to be executed by the District Superintendent or Assistant Superintendent of Police will be overthrown by the same authority. Therefore, on this point, we want a clear clarification.

Sri T. MARIAPPA.—I am afraid my Hon'ble friend the Home Minister is trying to justify the thing, naturally so, on the ground that he was a party to that section when he was in the Upper House; but I make a very special appeal to him; let him see the whole section in the proper context.

Sri H. SIDDAVEERAPPA.—May I intervene for a minute? I was not a party to that section.

Mr. SPEAKER.—What the Minister says is that the elders of that House have framed it for the guidance of this House.

Sri H. SIDDAVEERAPPA.—Because I had no vote; I could not exercise any vote; I have not had my own say.

Sri T. MARIAPPA.—Let us see the whole section in its proper context. Let us not make a law which to say the least does not read well. I will put that mildly. Section 38-A as originally passed by us made some sense. We have advisedly omitted that particular clause which says "Subject to the general or special orders of the Magistrate of the First Class having jurisdiction in any area". But if the Government had stuck to section 38 of the Bombay Police Act, all these troubles would not have arisen. That was a simple enough section and it conveyed sense, and the question of jurisdiction, the question of empowering a Magistrate, the question of an appeal lying to the very Magistrate who is empowered to pass general or special orders under which the District Superintendent or the Assistant Superintendent of Police has to act—all these troubles would have been obviated. Now the only course would be for this House to construct the section afresh in its proper context so that the section we are going to enact must make sense, must be designed with a view to secure the objectives for which this amendment is brought forward. I am in entire accord with Sri Rama Rao that this is one of the Police duties. A Magistrate need not necessarily come into the picture. What perhaps troubled the minds of the Elders,.....

Sri H. SIDDAVEERAPPA.—It was essentially my idea also.

Sri T. MARIAPPA.—What troubled essentially the minds of the Elders perhaps was that the Police may often-times go to excess; therefore they thought of lugging in an extra provision to secure some restraint over the excess of police officers. In making that, what happened is, they made confusion worse confounded.

(Sri T. MARIAPPA.)

Therefore, the best way is to construct the whole section afresh and so amend the section as to make the meaning clear and matters beyond doubt, so that in actual practice the Police would act safely without detriment to the public cause.

Sri H. SIDDAVEERAPPA.—So far as I am concerned, I was a party to the Bill as passed by this House. Hence I am equally attached to the principles as has been agreed to by this House. So far as the Government are concerned, I wish to make the position quite clear. I leave it the House either to accept the amendment or not to accept the amendment but if the amendment is not accepted, in other words it means the Bill as passed by the House stands.

Sri T. MARIAPPA.—Not necessarily.

Sri H. SIDDAVEERAPPA.—We will go to that point later on.

***Sri J. MOHAMED IMAM.**—The members of the Legislative Council, with all good intentions, wanted to create a safeguard to the people by making this fresh provision. But as it is, as pointed out by Sri Mariappa, the amendment will create further complications, because it is so vague and it does not fix the responsibility either on the Police officer or on the Magistrate. If it had been provided that the Magistrate alone should prohibit or issue licence on the recommendation of the Police officer, that would have been quite clear and satisfactory. Or, if it had been amended to the effect that the Police officer had the absolute power to prohibit subject to appeal before a Magistrate, that would also have been quite clear. But this is quite ambiguous and I am afraid it will lead to further confusion and the implementation of this clause, to carry out the laudable object, will be very difficult. If I am personally asked to select either the original clause or the new clause, I would select the original clause and vest the appellate power in the magistrate. According to this one, it is subject to the general or special powers of the magistrate. But what the general or special powers of the magistrate are, are not defined. Whether these powers vest him with original jurisdiction,

or with appellate jurisdiction or with absolute jurisdiction, controlling the actions of the Police is not made clear. So the magistrate will be in the darkness and he will not be in a position to act. Let us take the intentions of the Legislative Council into consideration. In the first place I may say that I am not for accepting the amendment of the Legislative Council, however elders they may be, and however experienced and intelligent they may be; because, in our opinion, the effects of this clause will not help to clarify the matters, nor will it in any way solve any complications that may arise, nor does it afford any protection to the people. If necessary, a small committee may be formed and the entire clause redrafted or recast. We can do it in a day or two. Tomorrow, two or three of us can meet. Thereby we will be respecting the wishes of the Members of the Legislative Council and not discarding their wishes.

Mr. SPEAKER.—Then, again, it has to be transmitted to the other House. The Hon'ble Minister says that it is a very urgent matter and that object will be frustrated.

Sri B. HUTCHE GOWDA.—If any amendment is necessary, it may be brought up in the next session.

Sri J. MOHAMED IMAM.—My idea is that the Police of course must have enough power to prevent nuisance. There must be an agency to control them or to keep them in check. Having this in view, we may look into the Bombay or Madras Act also.

Sri H. SIDDAVEERAPPA.—I may assure the Hon'ble Member that the Bombay Act and the Madras Act will not help you any further. So far as that is concerned, as Sri Mariappa put it, they have put it in one clause all that has been carried out by this clause 2. But our elders wanted to put in and hedge in with all sorts of reservations so that the power is not misused, according to them, by the Police officers.

Sri J. MOHAMED IMAM.—With great reluctance, we have to state that the acceptance of this amendment will not in any way improve the Bill. It is our opinion that the acceptance of this amendment made by the Legislative

Council will not in any way improve the Bill. We will accept the old Bill and take the consequence, or if necessary, if the Members feel there is scope for improvement, then a small committee may be set up and the whole Bill gone into.

Sri H. SIDDAVEERAPPA.—Under what provision? There are certain specified powers. The Speaker asked me not to refer to it at this stage; therefore I did not do so. We have got certain specified powers when dealing with the Bill at this particular time.

Mr. SPEAKER.—If it is to be taken up for further discussion tomorrow, there will be no time for continuing the discussion on Educational Reforms.

Sri J. MOHAMED IMAM.—We may extend the Session to Saturday also, if the Leader of the House agrees.

Sri K. HANUMANTHAIYA.—Tomorrow we shall have debate on Educational Reforms. If there is time, we shall proceed with the Bill. Otherwise, we may take it up at the next session because we have sat too long.

Mr. SPEAKER.—Tomorrow, after question hour, discussion on Educational Reforms will be taken up.

Mr. SPEAKER.—Now the discussion regarding the subject-matter of question No. 84 by Sri Hutche Gowda which was scheduled to be taken up on Saturday the 18th July, has to be taken up today.

DISCUSSION ON QUESTION No. 84 Re : SELECTION OF OFFICERS TO I. A. S. CADRE.

*ಶ್ರೀ ಬಿ. ಹುಚ್ಚೇಗೌಡ (ತುರುವೇಕೆರೆ).—ಸ್ವಾಮಿ, ಐ. ಎ. ಎಸ್. ವಿಚಾರದಲ್ಲಿ ಕೆಲವು ಮಾತುಗಳನ್ನು ಹೇಳಲು ಇಷ್ಟಪಡುತ್ತೇನೆ. ಈ ವಿಚಾರ ಅನೇಕ ಸಾರಿ ಈ ಸಭೆಯಲ್ಲಿ ಚರ್ಚೆಗೆ ಬಂದು ಬಹಳ ತೀವ್ರವಾಗಿ ಚರ್ಚಿಸಲಾಗಿದೆ. ಇದರಿಂದ ನಮ್ಮ ಸಭೆಯ ಸದಸ್ಯರಿಗೆ ಈ ವಿಚಾರದಲ್ಲಿ ಎಷ್ಟು ಕುತೂಹಲವಿದೆ ಮತ್ತು ಇದರಿಂದ ಎಷ್ಟು ಅನ್ಯಾಯವಾಗಿವೆ ಎಂಬುದು ಈಗಾಗಲೇ ಎಲ್ಲರಿಗೂ ಮನವರಿಕೆಯಾಗಿದೆ. ಈ ಸ್ಥಿತಿ ರಾಜ್ಯಾಂಗದ 312 ನೆಯ ಆರ್ಟಿಕಲ್ ಪ್ರಕಾರ ಆರ್ ಇಂಡಿಯಾ ಸರ್ವಿಸ್‌ನಲ್ಲಿ ಈ ಮೈಸೂರು ದೇಶದ ಸರ್ವಿಸ್ ಇಂಟಿಗ್ರೇಟ್ ಆದಮೇಲೆ ಜಾರಿಗೆ ಬಂದಿದೆ. ಸಾಮಾನ್ಯವಾಗಿ ಆರ್ ಇಂಡಿಯಾ ಸರ್ವಿಸ್ ಎಂದರೆ, ನಾನು ತಿಳಿದುಕೊಂಡಿರುವುದು, ಮುಖ್ಯವಾಗಿ ಇಡೀ

ಇಂಡಿಯಾ ದೇಶಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ದೃಷ್ಟಿಕೋನದಿಂದ ನಡೆಯುವ ಆಡಳಿತ ವರ್ಗಕ್ಕೆ ನಾಪೂ ಸೇರಿದ್ದೇವೆ ಎಂದು. ಅದು ಹೇಗೆಂದರೆ, ಹಿಂದೆ ರೆಸಿಡೆಂಟ್ ಇದ್ದ ಹಾಗೆ, ಮುಖ್ಯವಾಗಿ ಒಂದೆರಡು ಅಧಿಕಾರ ಸ್ಥಾನಗಳು ಮಾತ್ರ ಆರ್ ಇಂಡಿಯಾ ಸರ್ವಿಸ್‌ಗೆ ಸೇರಿದೆ, ಚೀಫ್ ಸೆಕ್ರೆಟರಿ, ಐ. ಜಿ. ಪಿ., ಅಕೌಂಟೆಂಟ್ ಜನರಲ್ ಇಂಥ ಎರಡು ಮೂರು ಸ್ಥಾನಗಳು ಆರ್ ಇಂಡಿಯಾ ಸರ್ವಿಸ್‌ಗೆ ಸೇರಿವೆ ಎಂದು. ಆದರೆ ಇದು ಹಾಗಲ್ಲ, ಇಡೀ ನಮ್ಮ ದೇಶದ ಮುಖ್ಯ ಅಧಿಕಾರವರ್ಗಕ್ಕೆಲ್ಲಾ ಸೇರಿದೆ, ಹಾಗೆ ಸೇರಬೇಕಾದರೆ ನಮ್ಮ ದೇಶದ ಸಿವಿಲ್ ಸರ್ವಿಸ್ ನೌಕರರಿಗಷ್ಟು ಅನ್ಯಾಯವಾಗಿದೆ ಎಂಬುದನ್ನು ಒಂದೆರಡು ಮಾತಿಲ್ಲ ಹೇಳಲು ಇಷ್ಟಪಡುತ್ತೇನೆ. ಐ. ಎ. ಎಸ್. ವಿಚಾರವನ್ನು ರಾಜ್ಯಾಂಗದಲ್ಲಿ ಸೇರಿಸಿ ರಾಜ್ಯಾಂಗ ರಚಿಸಿದವರಲ್ಲ ಡಾ|| ಅಂಬೇಡ್ಕರ್‌ರವರು ಕೂಡ ಒಬ್ಬರಾಗಿದ್ದರು. ಅವರ ಅಭಿಪ್ರಾಯ ಕೂಡ ಹೇಗಿತ್ತು ಎಂಬುದು ಆರ್ಟಿಕಲ್ 312 ನ್ನು ನೋಡಿದರೆ ಗೊತ್ತಾಗುತ್ತದೆ. ಆರ್ಟಿಕಲ್ 312 ರಲ್ಲಿ ಹೀಗೆ ಹೇಳಿದೆ:—

Article 312:

“The dual polity which is inherent in a federal system is followed in all Federations by a dual service. In all Federations, there is a Federal Civil Service and a State Civil Service. The Indian Federation, though a dual polity, will have a dual service, but with one exception. It is recognised that in every country there are certain posts in its administrative set-up which might be called strategic from the point of view of maintaining the standard of administration. There can be no doubt that the standard of administration depends upon the calibre of the civil servants who are appointed to these strategic posts. The Constitution provides that without depriving the States of their right to form their own civil services there shall be an all-India Service recruited on all-India basis with common qualifications, with uniform scale of pay and members of which could be appointed to these strategic posts throughout the Union.”

ಇದರ ಪ್ರಕಾರ ಸ್ವಾಭಿಜಿತ್ ಪೋಸ್ಟುಗಳು ಆರ್ ಇಂಡಿಯಾ ಸರ್ವಿಸ್‌ಗೆ ಸೇರಬಹುದು ಎಂಬ ಅಭಿಪ್ರಾಯವಿದೆ. ಆದ್ದರಿಂದ ಸ್ವಾಭಿಜಿತ್ ಪೋಸ್ಟು ಎಂದರೆ ಚೀಫ್ ಸೆಕ್ರೆಟರಿ, ಐ. ಜಿ. ಪಿ., ಅಕೌಂಟೆಂಟ್ ಜನರಲ್ ಇಂಥ ಹುದ್ದೆಗಳಲ್ಲದೆ, ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಸೆಕ್ರೆಟರಿಗಳು ಈ ಹುದ್ದೆಗಳು ಸಹ ಅದಕ್ಕೆ ಸೇರುತ್ತವೆ. ಇಷ್ಟೆಲ್ಲಾ ಸೇರುವಾಗ, ನಮ್ಮ ಸಂಸ್ಥಾನದಲ್ಲಿ ಮೈಸೂರು ಸಿವಿಲ್ ಸರ್ವಿಸ್ ಎಂಬುದು ಹೆಸರು